

Pro Se 1 (Rev. 12/16) Complaint for a Civil Case

UNITED STATES DISTRICT COURT

for the

Southern District of Georgia

Division

Case No.

1:23-cv-193

(to be filled in by the Clerk's Office)

Brian D. Swanson

Plaintiff(s)

(Write the full name of each plaintiff who is filing this complaint. If the names of all the plaintiffs cannot fit in the space above, please write "see attached" in the space and attach an additional page with the full list of names.)

-v-

United States of America

Defendant(s)

(Write the full name of each defendant who is being sued. If the names of all the defendants cannot fit in the space above, please write "see attached" in the space and attach an additional page with the full list of names.)

Jury Trial: (check one) ☐ Yes ☒ No

U. S. DISTRICT COURT
Southern District of Ga.

Filed in Office

11:37 AMJan. 3 20 24

James J. Jones
Deputy Clerk

COMPLAINT FOR A CIVIL CASE

I. The Parties to This Complaint

A. The Plaintiff(s)

Provide the information below for each plaintiff named in the complaint. Attach additional pages if needed.

Name	Brian D. Swanson
Street Address	1805 Prince George Ave
City and County	Evans, Columbia County
State and Zip Code	GA, 30809
Telephone Number	(831)601-0116
E-mail Address	swansons6@hotmail.com

B. The Defendant(s)

Provide the information below for each defendant named in the complaint, whether the defendant is an individual, a government agency, an organization, or a corporation. For an individual defendant, include the person's job or title (*if known*). Attach additional pages if needed.

Defendant No. 1

Name	United States of America
Job or Title (<i>if known</i>)	Attorney General of the United States
Street Address	950 Pennsylvania Ave
City and County	Washington
State and Zip Code	DC, 20530
Telephone Number	(202)514-2000
E-mail Address (<i>if known</i>)	

Defendant No. 2

Name	
Job or Title (<i>if known</i>)	
Street Address	
City and County	
State and Zip Code	
Telephone Number	
E-mail Address (<i>if known</i>)	

Defendant No. 3

Name	
Job or Title (<i>if known</i>)	
Street Address	
City and County	
State and Zip Code	
Telephone Number	
E-mail Address (<i>if known</i>)	

Defendant No. 4

Name	
Job or Title (<i>if known</i>)	
Street Address	
City and County	
State and Zip Code	
Telephone Number	

E-mail Address (if known) _____

II. Basis for Jurisdiction

Federal courts are courts of limited jurisdiction (limited power). Generally, only two types of cases can be heard in federal court: cases involving a federal question and cases involving diversity of citizenship of the parties. Under 28 U.S.C. § 1331, a case arising under the United States Constitution or federal laws or treaties is a federal question case. Under 28 U.S.C. § 1332, a case in which a citizen of one State sues a citizen of another State or nation and the amount at stake is more than \$75,000 is a diversity of citizenship case. In a diversity of citizenship case, no defendant may be a citizen of the same State as any plaintiff.

What is the basis for federal court jurisdiction? (check all that apply)

☒ Federal question

☐ Diversity of citizenship

Fill out the paragraphs in this section that apply to this case.

A. If the Basis for Jurisdiction Is a Federal Question

List the specific federal statutes, federal treaties, and/or provisions of the United States Constitution that are at issue in this case.

1. This civil action against the United States for a refund of taxes withheld from the Plaintiff against the possibility of a Federal Income Tax liability. Therefore, this Court has general jurisdiction to hear this case pursuant to 28 U.S.C §1491(a), and original jurisdiction concurrent with the U.S. Court of Federal Claims under 28 U.S.C §1346(a)(1).
2. The statutes and regulations that relate to federal tax refund claims are 26 U.S.C §6401(c), 26 U.S.C §6402(a), and their corresponding implementing regulations 26 CFR § 301.6401-1 and , 26 CFR § 301.6402-3.
3. Suit may be brought under 26 U.S.C §7422(a) since the required six months has expired as required by 26 USC §6532(a)(1).
4. U.S. Constitution Art 1 Sec., 2, 8, 9. All taxes enacted by Congress must be collected by either the rule of apportionment or the rule of uniformity. The collection of the income tax is subject to the either the rule of apportionment or the rule of uniformity.
5. U.S Constitution Art 4 Sec. 3. The Territory Clause does not permit the Uniformity Clause to be violated. All incorporated Territories are subject to the Uniformity Clause.

B. If the Basis for Jurisdiction Is Diversity of Citizenship

1. The Plaintiff(s)

a. If the plaintiff is an individual

The plaintiff, (name) _____, is a citizen of the
State of (name) _____.

b. If the plaintiff is a corporation

The plaintiff, (name) _____, is incorporated
under the laws of the State of (name) _____,
and has its principal place of business in the State of (name)
_____.

(If more than one plaintiff is named in the complaint, attach an additional page providing the same information for each additional plaintiff.)

2. The Defendant(s)

a. If the defendant is an individual

The defendant, (name) _____, is a citizen of
the State of (name) _____. Or is a citizen of
(foreign nation) _____.

b. If the defendant is a corporation

The defendant, (name) _____, is incorporated under
the laws of the State of (name) _____, and has its
principal place of business in the State of (name) _____.
Or is incorporated under the laws of (foreign nation) _____,
and has its principal place of business in (name) _____.

(If more than one defendant is named in the complaint, attach an additional page providing the same information for each additional defendant.)

3. The Amount in Controversy

The amount in controversy—the amount the plaintiff claims the defendant owes or the amount at stake—is more than \$75,000, not counting interest and costs of court, because *(explain)*:

\$6,650 plus statutory interest.

\$2,264 plus statutory interest.

III. Statement of Claim

Write a short and plain statement of the claim. Do not make legal arguments. State as briefly as possible the facts showing that each plaintiff is entitled to the damages or other relief sought. State how each defendant was involved and what each defendant did that caused the plaintiff harm or violated the plaintiff's rights, including the dates and places of that involvement or conduct. If more than one claim is asserted, number each claim and write a short and plain statement of each claim in a separate paragraph. Attach additional pages if needed.

(1) Plaintiff, Brian D. Swanson, filed this lawsuit against Defendant United States of America for a claim of income tax refund and for the return of taxes that were paid for tax year 2021. The Defendant has failed to issue the refund as determined by itself. Sufficient time has elapsed before filing suit, in accordance with 26 USC §6532, and therefore, Plaintiff filed this action against the Defendant.

(2) Plaintiff filed his 2021 tax return on April 4, 2022

(3) Plaintiff's 2021 tax return shows a refund due of \$11,841.00

(4) IRS performed an audit of Plaintiff's return and issued notice CP12 dated November 14, 2022. Document attached.

(5) IRS made corrections to Plaintiff's return and determined that a corrected refund of \$6,650.03 is due.

(6) IRS Notice CP12 shows that the IRS accepted Plaintiff's return as a valid return.

(7) IRS Notice CP12 shows that the IRS accepted Plaintiff's return as a valid claim for refund.

(8) IRS Notice CP12 shows that Plaintiff is due a refund of \$6,650.03.

(9) As of the date of the filing of this complaint, Plaintiff has not received the corrected refund as determined by the Defendant.

(10) IRS Notice CP12 authorizes Plaintiff to file a claim for refund in District Court.

(11) IRS Notice CP12 shows a total tax paid of \$2,264.

(12) Puerto Rico became an incorporated Territory when Congress approved its constitution on July 3, 1952.

(13) Puerto Rico became an incorporated Territory no later than March 2, 2021 when H.R. 1522 was introduced in Congress to consider statehood for Puerto Rico.

(14) Puerto Rico has been subject to the Uniformity Clause of the Constitution when collecting the federal income tax ever since it became an incorporated Territory.

(15) American citizens who are bona fide residents of Puerto Rico are excluded from the income tax under 26 U.S.C. §933 while American citizens who are bona fide residents of Georgia are not excluded.

(16) The tax of \$2,264 that Plaintiff paid as shown on IRS Notice CP12 was collected from Plaintiff in a manner that is not uniform throughout the United States and is void. Defendant must refund this tax to Plaintiff.

IV. Relief

State briefly and precisely what damages or other relief the plaintiff asks the court to order. Do not make legal arguments. Include any basis for claiming that the wrongs alleged are continuing at the present time. Include the amounts of any actual damages claimed for the acts alleged and the basis for these amounts. Include any punitive or exemplary damages claimed, the amounts, and the reasons you claim you are entitled to actual or punitive money damages.

The Plaintiff prays for judgement against the Defendant as follows:

A. That this Court find for the Plaintiff in the amount of \$6,650 in overpaid tax for the tax year 2021 as determined by Defendant.

B. That this Court find that Plaintiff must be refunded \$2,264 in taxes paid for tax year 2021.

V. Certification and Closing

Under Federal Rule of Civil Procedure 11, by signing below, I certify to the best of my knowledge, information, and belief that this complaint: (1) is not being presented for an improper purpose, such as to harass, cause unnecessary delay, or needlessly increase the cost of litigation; (2) is supported by existing law or by a nonfrivolous argument for extending, modifying, or reversing existing law; (3) the factual contentions have evidentiary support or, if specifically so identified, will likely have evidentiary support after a reasonable opportunity for further investigation or discovery; and (4) the complaint otherwise complies with the requirements of Rule 11.

A. For Parties Without an Attorney

I agree to provide the Clerk's Office with any changes to my address where case-related papers may be served. I understand that my failure to keep a current address on file with the Clerk's Office may result in the dismissal of my case.

Date of signing: _____

Signature of Plaintiff _____

Printed Name of Plaintiff _____

Brian D. Swanson

B. For Attorneys

Date of signing: _____

Signature of Attorney _____

Printed Name of Attorney _____

Bar Number _____

Name of Law Firm _____

Street Address _____

State and Zip Code _____

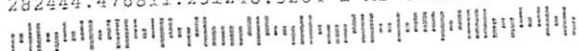
Telephone Number _____

E-mail Address _____



Department of the Treasury
Internal Revenue Service
Kansas City, MO 64999-0025

282444.476811.251248.5264 1 AB 0.491 856



BRIAN SWANSON
1805 PRINCE GEORGE AVE
EVANS GA 30809-5460

For your reference	
Notice name CP12	Tax year 2021
Notice date November 14, 2022	
Your caller ID 901988	
Your last	January 13, 2023
For learn on ti	irs.gov/CP12 to avoid waiting
9H	
653D	

Page 1 of 3

We found an error on your 2021 Form 1040, which affects the following area of your return: **Earned Income Tax Credit/Child Tax Credit/Additional Child Tax Credit**

We changed your return to correct this error. As a result, you are due a refund.

Adjusted Refund: \$6,650.03

Billing summary

Payments you made	- \$8,740.00
Tax you owed	\$2,264.00
Interest we owe you*	- \$174.03
Amount applied to your 2022 estimated tax	\$0.00
Refund	* \$6,650.03

*Your refund will be more if we owe you interest

Why we changed your information

- We didn't allow the amount claimed as Earned Income Credit, nonrefundable Child Tax Credit, additional Child Tax Credit, refundable Child Tax Credit, credit for other dependents, and/or American Opportunity Tax Credit on your tax return. We have no record of receiving Form 8862, Information to Claim Certain Credits after Disallowance. You must submit a completed Form 8862 to recertify your eligibility for any of the credits claimed.

Review the changes made to your account under "Tax calculations, payments and credits" section. If you disagree, contact us by **January 13, 2023 to resolve the errors**. You can contact us at 800-829-0922. Be sure to have your account information available when you call. See the "How to resolve this issue" section for more information.

How to resolve this issue

Review this notice and compare our changes to the information on your tax return.

If you do not contact us by January 13, 2023, we'll proceed as if you agree with the information in this notice.

If you agree with the changes we made:

- If you haven't received a refund for \$6,650.03, you should receive it within 4-6 weeks as long as you don't owe other tax or debts we're required to collect.

Continued on back..

Notice: CP12

Tax year: 2021

Notice date: November 14, 2022 TIN:

Page 2 of 3

How to resolve this issue – continued**If you don't agree with the changes we made:**

- Call 800-829-0922 using "Your caller ID" provided on the top of page one to review your account with a representative. Be sure to have your account information available when you call. You can also contact us by mail at the address at the top of the first page of this notice. Be sure to include your taxpayer identification number, tax year, and form number you are writing about.
- **To preserve your formal appeal rights, including the right to appeal our decision in the U.S. Tax Court, you must contact us by phone or in writing by January 13, 2023.** We'll then reverse the change we made to your return. You don't need to provide any explanation or additional documents when you request the reversal, but we'll consider any information you provide us. However, if we do not receive information that supports your original return, we may forward your case for audit, in which case you will be contacted by the audit staff within 6 weeks to explain the process and your rights. We are not required to reverse changes we made to the tax withholding or estimated tax payments you reported but will consider the information you provide us.
- **If you do not contact us by January 13, 2023, the change will not be reversed.** However, you may file a claim for refund to dispute the change. Generally, you must submit the claim within 3 years of the date you filed the tax return, or within 2 years of the date of your last payment for this tax, whichever is later.

Your tax calculations

Description	Your calculations	IRS calculations
Adjusted gross income, Form 1040 line 11	\$33,060.00	\$33,060.00
Taxable income, Form 1040 line 15	\$20,510.00	\$20,510.00
Total tax, Form 1040 line 24	\$1,264.00	\$2,264.00

Your payments and credits

Description	IRS calculations
Income tax withheld, Form 1040 line 25d	\$8,740.00
Estimated tax payments, Form 1040 line 26, SCH 3 line 10	\$0.00
Other credits, Form 1040 lines 27a, 28-30, SCH 3 lines 9, 11, 12, 14	\$0.00
Other payments received	\$0.00
Total payments and credits	\$8,740.00

Report any interest paid on your refund as taxable income on your tax return for this year.

IRS help

- For online assistance, visit irs.gov/help.
- If you can't find what you need online, call the IRS at 800-829-0922.
- Activity on your 2021 account may be delaying the release of your refund. You will receive a notice explaining this delay.
- **Estimated Tax Filers Note:** If you pay estimated taxes, check your computation of estimated tax to see if you should adjust your estimated tax payments.

Taxpayer rights and sources of assistance

The Internal Revenue Code (IRC) gives taxpayers specific rights. The Taxpayer Bill of Rights groups these into 10 fundamental rights. See IRC Section 7803(a)(3). IRS employees are responsible for being familiar with and following these rights. For additional information about your taxpayer rights, please see the enclosed Publication 1, Your Rights as a Taxpayer, or visit irs.gov/taxpayer-bill-of-rights.

The Taxpayer Advocate Service (TAS) is an independent organization within the IRS that helps taxpayers and protects taxpayers' rights. TAS can offer you help if your tax problem is causing a financial difficulty, you've tried but been unable to resolve your issue with the IRS, or you believe an IRS system, process, or procedure isn't working as it should. If you qualify for TAS assistance, which is always free, TAS will do everything possible to help you. To learn more, visit taxpayeradvocate.irs.gov or call 877-777-4778.

Tax professionals who are independent from the IRS may be able to help you.



Scan here to view the
Taxpayer Advocate Website

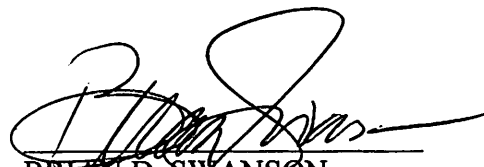
CERTIFICATE OF SERVICE

I Hereby certify that on this 3rd day of January, 2024, I filed the foregoing amended complaint with the Clerk of the Court and on the same day mailed the document by United States Postal Service to the following:

US Attorney General
950 Pennsylvania Ave
Washington DC 20503

Commissioner of Internal Revenue
1111 Constitution Ave
Washington, D.C. 20221

Assistant United States Attorney
Civil Process Clerk
600 James Brown Blvd
Augusta, GA 30901



BRIAN D. SWANSON
Plaintiff, pro se